

**PENALTIES RELATING TO TAXES, FEES,
OR CHARGES**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: John Dougall

Cosponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the State Tax Commission chapter relating to penalties and related payments.

Highlighted Provisions:

This bill:

- defines terms;
- modifies penalty and related payment provisions that apply to taxes, fees, or charges with respect to the failure to:
 - file a return; or
 - pay a tax, fee, or charge due;
- enacts uncoded language requiring the Utah Tax Review Commission to conduct a study on penalties relating to taxes, fees, or charges; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-1-401, as last amended by Chapters 67 and 255, Laws of Utah 2004

30 **59-7-507**, as last amended by Chapter 311, Laws of Utah 1995

31 **59-10-516**, as last amended by Chapter 332, Laws of Utah 1997

32 **Uncodified Material Affected:**

33 ENACTS UNCODIFIED MATERIAL

34

35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **59-1-401** is amended to read:

37 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
38 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
39 **interest.**

40 ~~[(1) (a) The penalty for failure to file a tax return within the time prescribed by law~~
41 ~~including extensions is the greater of \$20 or 10% of the unpaid tax due on the return.]~~

42 (1) As used in this section:

43 (a) (i) "Nonqualifying obligation" means a charge, fee, payment, or tax administered by
44 the commission.

45 (ii) "Nonqualifying obligation" does not include:

46 (A) beginning on the phase I activation date, a phase I obligation; or

47 (B) beginning on the phase II activation date, a phase II obligation.

48 (b) "Phase I activation date" means the earlier of:

49 (i) the day on which the commission's GenTax system is activated to administer all
50 phase I obligations; or

51 (ii) May 1, 2008.

52 (c) "Phase I obligation" means:

53 (i) a fee under Section 19-6-808;

54 (ii) a tax under Chapter 10, Part 1, Determination and Reporting of Tax Liability and
55 Information;

56 (iii) a tax under Chapter 10, Part 2, Trusts and Estates;

57 (iv) a tax under Chapter 10, Part 12, Single Rate Individual Income Tax Act; or

(v) a tax under Chapter 12, Sales and Use Tax Act.

(d) "Phase II activation date" means the earlier of:

(i) the day on which the commission's GenTax system is activated to administer all phase II obligations; or

(ii) May 4, 2009.

(e) (i) "Phase II obligation" means:

(A) a payment under Chapter 6, Mineral Production Tax Withholding;

(B) a tax under Chapter 7, Corporate Franchise and Income Taxes;

(C) a payment under Chapter 10, Part 4, Withholding of Tax; or

(D) a tax paid on a return filed in accordance with Section 59-10-507.

(ii) "Phase II obligation" does not include a payment of estimated tax under Section 59-7-504.

(2) (a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the last day of that extension of time.

(b) (i) A penalty in the amount described in Subsection (2)(b)(ii) is imposed if:

(A) a person is required to file a return with respect to a nonqualifying obligation; and

(B) the person described in Subsection (2)(b)(i)(A) files the return after the due date described in Subsection (2)(a).

(ii) For purposes of Subsection (2)(b)(i), the penalty is an amount equal to the greater of:

(A) \$20; or

(B) 10% of the unpaid nonqualifying obligation due on the return.

(c) (i) A penalty in the amount described in Subsection (2)(c)(ii) is imposed if a person:

(A) (I) is required to file a return:

(Aa) on or after the phase I activation date; and

86 (Bb) with respect to a phase I obligation; and

87 (II) files the return after the due date described in Subsection (2)(a); or

88 (B) (I) is required to file a return:

89 (Aa) on or after the phase II activation date; and

90 (Bb) with respect to a phase II obligation; and

91 (II) files the return after the due date described in Subsection (2)(a).

92 (ii) For purposes of Subsection (2)(c)(i), the penalty is an amount equal to the greater
93 of:

94 (A) \$20; or

95 (B) (I) 2% of the unpaid phase I obligation or phase II obligation due on the return if
96 the return is filed no later than five days after the due date described in Subsection (2)(a);

97 (II) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
98 return is filed more than five days after the due date but no later than 15 days after the due date
99 described in Subsection (2)(a); or

100 (III) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
101 return is filed more than 15 days after the due date described in Subsection (2)(a).

102 ~~[(b)]~~ (d) This Subsection ~~[(1)]~~ (2) does not apply to an amended ~~[returns]~~ return.

103 ~~[(2) The penalty for failure to pay tax due shall be the greater of \$20 or 10% of the~~
104 ~~unpaid tax for:]~~

105 ~~[(a) failure to pay any tax, as reported on a timely filed return;]~~

106 ~~[(b) failure to pay any tax within 90 days of the due date of the return, if there was a~~
107 ~~late filed return subject to the penalty provided under Subsection (1)(a);]~~

108 ~~[(c) failure to pay any tax within 30 days of the date of mailing any notice of deficiency~~
109 ~~of tax unless a petition for redetermination or a request for agency action is filed within 30 days~~
110 ~~of the date of mailing the notice of deficiency;]~~

111 ~~[(d) failure to pay any tax within 30 days after the date the commission's order~~
112 ~~constituting final agency action resulting from a timely filed petition for redetermination or~~
113 ~~request for agency action is issued or is considered to have been denied under Subsection~~

114 ~~63-46b-13(3)(b); and]~~

115 ~~[(c) failure to pay any tax within 30 days after the date of a final judicial decision~~
116 ~~resulting from a timely filed petition for judicial review.]~~

117 (3) (a) If a person fails to pay a tax, fee, or charge due, the person is subject to a
118 penalty as provided in this Subsection (3).

119 (b) (i) A penalty in the amount described in Subsection (3)(b)(ii) is imposed if:

120 (A) a person files a return with respect to a nonqualifying obligation on or before the
121 due date for filing a return described in Subsection (2)(a), but fails to pay the nonqualifying
122 obligation due on the return on or before that due date;

123 (B) a person:

124 (I) is subject to a penalty under Subsection (2)(b); and

125 (II) fails to pay a nonqualifying obligation due on a return within a 90-day period after
126 the due date for filing a return described in Subsection (2)(a);

127 (C) a person:

128 (I) is mailed a notice of deficiency; and

129 (II) within a 30-day period after the day on which the notice of deficiency described in
130 Subsection (3)(b)(i)(C)(I) is mailed;

131 (Aa) does not file a petition for redetermination or a request for agency action; and

132 (Bb) fails to pay a nonqualifying obligation due on a return;

133 (D) (I) the commission;

134 (Aa) issues an order constituting final agency action resulting from a timely filed
135 petition for redetermination or a timely filed request for agency action; or

136 (Bb) is considered to have denied a request for reconsideration under Subsection
137 63-46b-13(3)(b) resulting from a timely filed petition for redetermination or a timely filed
138 request for agency action; and

139 (II) a person fails to pay a nonqualifying obligation due on a return within a 30-day
140 period after the date the commission;

141 (Aa) issues the order constituting final agency action described in Subsection

142 (3)(b)(i)(D)(I)(Aa); or

143 (Bb) is considered to have denied the request for reconsideration described in

144 Subsection (3)(b)(i)(D)(I)(Bb); or

145 (E) a person fails to pay a nonqualifying obligation within a 30-day period after the date
146 of a final judicial decision resulting from a timely filed petition for judicial review.

147 (ii) For purposes of Subsection (3)(b)(i), the penalty is an amount equal to the greater
148 of:

149 (A) \$20; or

150 (B) 10% of the unpaid nonqualifying obligation due on the return.

151 (c) (i) This Subsection (3)(c) applies to a penalty:

152 (A) imposed on or after the phase I activation date with respect to a phase I obligation;

153 or

154 (B) imposed on or after the phase II activation date with respect to a phase II
155 obligation.

156 (ii) (A) The penalty described in Subsection (3)(c)(ii)(B) applies if a person:

157 (I) with respect to a phase I obligation:

158 (Aa) files a return on or before the due date for filing a return described in Subsection
159 (2)(a); and

160 (Bb) fails to pay the phase I obligation due on the return on or before the due date
161 described in Subsection (2)(a); or

162 (II) with respect to a phase II obligation:

163 (Aa) files a return on or before the due date for filing a return described in Subsection
164 (2)(a); and

165 (Bb) fails to pay the phase II obligation due on the return on or before the due date
166 described in Subsection (2)(a).

167 (B) For purposes of Subsection (3)(c)(ii)(A), the penalty is an amount equal to the
168 greater of:

169 (I) \$20; or

(II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if the phase I obligation or phase II obligation due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

(Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the phase I obligation or phase II obligation due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

(Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the phase I obligation or phase II obligation due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(iii) (A) A person is subject to a penalty as provided in Subsection (3)(c)(iii)(B) if the person:

(I) is subject to a penalty under Subsection (2)(c); and

(II) fails to pay a phase I obligation or phase II obligation due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a).

(B) For purposes of Subsection (3)(c)(iii)(A), the penalty is an amount equal to the greater of:

(I) \$20; or

(II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if the phase I obligation or phase II obligation due on the return is paid no later than five days after the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II);

(Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the phase I obligation or phase II obligation due on the return is paid more than five days after the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II) but no later than 15 days after the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II); or

(Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the phase I obligation or phase II obligation due on the return is paid more than 15 days after the last day of the 90-day period described in Subsection (3)(c)(iii)(A)(II).

198 (iv) (A) A person is subject to a penalty as provided in Subsection (3)(c)(iv)(B) if the
199 person:
200 (I) is mailed a notice of deficiency; and
201 (II) within a 30-day period after the day on which the notice of deficiency described in
202 Subsection (3)(c)(iv)(A)(I) is mailed:
203 (Aa) does not file a petition for redetermination or a request for agency action; and
204 (Bb) fails to pay a phase I obligation or phase II obligation due on a return.
205 (B) For purposes of Subsection (3)(c)(iv)(A), the penalty is an amount equal to the
206 greater of:
207 (I) \$20; or
208 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
209 the phase I obligation or phase II obligation due on the return is paid no later than five days
210 after the last day of the 30-day period described in Subsection (3)(c)(iv)(A)(II);
211 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
212 phase I obligation or phase II obligation due on the return is paid more than five days after the
213 last day of the 30-day period described in Subsection (3)(c)(iv)(A)(II) but no later than 15 days
214 after the last day of the 30-day period described in Subsection (3)(c)(iv)(A)(II); or
215 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
216 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
217 last day of the 30-day period described in Subsection (3)(c)(iv)(A)(II).
218 (v) (A) A person is subject to a penalty as provided in Subsection (3)(c)(v)(B) if:
219 (I) the commission:
220 (Aa) issues an order constituting final agency action resulting from a timely filed
221 petition for redetermination or a timely filed request for agency action; or
222 (Bb) is considered to have denied a request for reconsideration under Subsection
223 63-46b-13(3)(b) resulting from a timely filed petition for redetermination or a timely filed
224 request for agency action; and
225 (II) the person fails to pay a phase I obligation or phase II obligation due on a return

226 within a 30-day period after the date the commission:

227 (Aa) issues the order constituting final agency action described in Subsection
228 (3)(c)(v)(A)(I)(Aa); or

229 (Bb) is considered to have denied the request for reconsideration described in
230 Subsection (3)(c)(v)(A)(I)(Bb).

231 (B) For purposes of Subsection (3)(c)(v)(A), the penalty is an amount equal to the
232 greater of:

233 (I) \$20; or

234 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
235 the phase I obligation or phase II obligation due on the return is paid no later than five days
236 after the last day of the 30-day period described in Subsection (3)(c)(v)(A)(II);

237 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the
238 phase I obligation or phase II obligation due on the return is paid more than five days after the
239 last day of the 30-day period described in Subsection (3)(c)(v)(A)(II) but no later than 15 days
240 after the last day of the 30-day period described in Subsection (3)(c)(v)(A)(II); or

241 (Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the
242 phase I obligation or phase II obligation due on the return is paid more than 15 days after the
243 last day of the 30-day period described in Subsection (3)(c)(v)(A)(II).

244 (vi) (A) A person is subject to a penalty as provided in Subsection (3)(c)(vi)(B) if
245 within a 30-day period after the date of a final judicial decision resulting from a timely filed
246 petition for judicial review, the person fails to pay a phase I obligation or phase II obligation.

247 (B) For purposes of Subsection (3)(c)(vi)(A), the penalty is an amount equal to the
248 greater of:

249 (I) \$20; or

250 (II) (Aa) 2% of the unpaid phase I obligation or phase II obligation due on the return if
251 the phase I obligation or phase II obligation due on the return is paid no later than five days
252 after the last day of the 30-day period described in Subsection (3)(c)(vi)(A);

253 (Bb) 5% of the unpaid phase I obligation or phase II obligation due on the return if the

phase I obligation or phase II obligation due on the return is paid more than five days after the last day of the 30-day period described in Subsection (3)(c)(vi)(A) but no later than 15 days after the last day of the 30-day period described in Subsection (3)(c)(vi)(A); or

(Cc) 10% of the unpaid phase I obligation or phase II obligation due on the return if the phase I obligation or phase II obligation due on the return is paid more than 15 days after the last day of the 30-day period described in Subsection (3)(c)(vi)(A).

[~~(3)~~] (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b) (i) For purposes of Subsection [~~(3)~~] (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection [~~(3)~~] (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

~~[(4) (a) In case of an extension of time to file an individual income tax or corporate franchise tax return, if the lesser of 90% of the total tax reported on the tax return or 100% of the prior year's tax is not paid by the due date of the return, not including extensions, a 2% per month penalty shall apply on the unpaid tax during the period of extension.]~~

~~[(b) If a return is not filed within the extension time period as provided in Section 59-7-505 or 59-10-516, penalties as provided in Subsection (1) and Subsection (2)(b) shall be~~

added in lieu of the penalty assessed under this Subsection (4) as if no extension of time for filing a return had been granted.]

(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the unpaid tax due on the return.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the unpaid tax due on the return; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) \$20; or

(B) 10% of the unpaid tax due on the return.

~~[(5)]~~ (7) (a) Additional penalties for underpayments of tax are as provided in Subsections (5)(a)(i) through (iv) this Subsection (7)(a).

~~(i)~~ (i) Except as provided in Subsection ~~[(5)]~~ (7)(c), if any underpayment of tax is due to

310 negligence, the penalty is 10% of the underpayment.

311 (ii) Except as provided in Subsection [~~(5)~~] (7)(d), if any underpayment of tax is due to
312 intentional disregard of law or rule, the penalty is 15% of the underpayment.

313 (iii) For intent to evade the tax, the penalty is the greater of \$500 per period or 50% of
314 the tax due.

315 (iv) If the underpayment is due to fraud with intent to evade the tax, the penalty is the
316 greater of \$500 per period or 100% of the underpayment.

317 (b) If the commission determines that a person is liable for a penalty imposed under
318 Subsection [~~(5)~~] (7)(a)(ii), (iii), or (iv), the commission shall notify the taxpayer of the proposed
319 penalty.

320 (i) The notice of proposed penalty shall:

321 (A) set forth the basis of the assessment; and

322 (B) be mailed by registered mail, postage prepaid, to the person's last-known address.

323 (ii) Upon receipt of the notice of proposed penalty, the person against whom the
324 penalty is proposed may:

325 (A) pay the amount of the proposed penalty at the place and time stated in the notice;

326 or

327 (B) proceed in accordance with the review procedures of Subsection [~~(5)~~] (7)(b)(iii).

328 (iii) Any person against whom a penalty has been proposed in accordance with this
329 Subsection [~~(5)~~] (7) may contest the proposed penalty by filing a petition for an adjudicative
330 proceeding with the commission.

331 (iv) (A) If the commission determines that a person is liable for a penalty under this
332 Subsection [~~(5)~~] (7), the commission shall assess the penalty and give notice and demand for
333 payment.

334 (B) The notice and demand for payment described in Subsection (7)(b)(iv)(A) shall be
335 mailed by registered mail, postage prepaid, to the person's last-known address.

336 (c) [~~Notwithstanding Subsection (5)(a)(i), a~~] A seller that voluntarily collects a tax
337 under Subsection 59-12-107(1)(b) is not subject to the penalty under Subsection [~~(5)~~] (7)(a)(i)

if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsection 59-12-103(2)(a) or (b); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsection 59-12-103(2)(a) or (b).

(d) ~~[Notwithstanding Subsection (5)(a)(ii), a]~~ A seller that voluntarily collects a tax under Subsection 59-12-107(1)(b) is not subject to the penalty under Subsection ~~[(5)]~~ (7)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsection 59-12-103(2)(a) or (b); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(1)(a); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsection 59-12-103(2)(a) or (b); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the

establishment of new law.

~~[(6)]~~ (8) Except as provided in Section 59-12-105, the penalty for failure to file an information return, information report, or a complete supporting schedule is \$50 for each information return, information report, or supporting schedule up to a maximum of \$1,000.

~~[(7)]~~ (9) If any taxpayer, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of the tax law and files a purported return that fails to contain information from which the correctness of reported tax liability can be determined or that clearly indicates that the tax liability shown must be substantially incorrect, the penalty is \$500.

~~[(8)]~~ (10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a)(i):

(i) is subject to ~~[the penalties]~~ a penalty described in Subsection ~~[(1)]~~ (2); and
(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

(i) is subject to ~~[the penalties]~~ a penalty described in Subsection ~~[(1)]~~ (2); and
(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

~~[(9)]~~ (11) (a) A person is subject to the penalty provided in Subsection ~~[(9)]~~ (11)(c) if that person:

(i) commits an act described in Subsection ~~[(9)]~~ (11)(b) with respect to one or more of the following documents:

(A) a return;

(B) an affidavit;

(C) a claim; or

(D) a document similar to Subsections ~~[(9)]~~ (11)(a)(i)(A) through (C);

(ii) knows or has reason to believe that the document described in Subsection ~~[(9)]~~ (11)(a)(i) will be used in connection with any material matter administered by the commission;

and

(iii) knows that the document described in Subsection ~~[(9)]~~ (11)(a)(i), if used in connection with any material matter administered by the commission, would result in an understatement of another person's liability for a tax, fee, or charge administered by the commission.

(b) The following acts apply to Subsection ~~[(9)]~~ (11)(a)(i):

(i) preparing any portion of a document described in Subsection ~~[(9)]~~ (11)(a)(i);

(ii) presenting any portion of a document described in Subsection ~~[(9)]~~ (11)(a)(i);

(iii) procuring any portion of a document described in Subsection ~~[(9)]~~ (11)(a)(i);

(iv) advising in the preparation or presentation of any portion of a document described in Subsection ~~[(9)]~~ (11)(a)(i);

(v) aiding in the preparation or presentation of any portion of a document described in Subsection ~~[(9)]~~ (11)(a)(i);

(vi) assisting in the preparation or presentation of any portion of a document described in Subsection ~~[(9)]~~ (11)(a)(i); or

(vii) counseling in the preparation or presentation of any portion of a document described in Subsection ~~[(9)]~~ (11)(a)(i).

(c) For purposes of Subsection ~~[(9)]~~ (11)(a), the penalty:

(i) shall be imposed by the commission;

(ii) is \$500 for each document described in Subsection ~~[(9)]~~ (11)(a)(i) with respect to which the person described in Subsection ~~[(9)]~~ (11)(a) meets the requirements of Subsection ~~[(9)]~~ (11)(a); and

(iii) is in addition to any other penalty provided by law.

(d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection ~~[(9)]~~ (11).

(e) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections ~~[(9)]~~ (11)(a)(i)(A) through (C).

422 ~~[(10)]~~ (12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as
423 provided in Subsections ~~[(10)]~~ (12)(b) through (e).

424 (b) (i) Any person who is required by this title or any laws the commission administers
425 or regulates to register with or obtain a license or permit from the commission, who operates
426 without having registered or secured a license or permit, or who operates when the registration,
427 license, or permit is expired or not current, is guilty of a class B misdemeanor.

428 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection ~~[(10)]~~ (12)(b)(i), the
429 penalty may not:

430 (A) be less than \$500; or

431 (B) exceed \$1,000.

432 (c) (i) Any person who, with intent to evade any tax or requirement of this title or any
433 lawful requirement of the commission, fails to make, render, sign, or verify any return or to
434 supply any information within the time required by law, or who makes, renders, signs, or
435 verifies any false or fraudulent return or statement, or who supplies any false or fraudulent
436 information, is guilty of a third degree felony.

437 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection ~~[(10)]~~ (12)(c)(i), the
438 penalty may not:

439 (A) be less than \$1,000; or

440 (B) exceed \$5,000.

441 (d) (i) Any person who intentionally or willfully attempts to evade or defeat any tax or
442 the payment of a tax is, in addition to other penalties provided by law, guilty of a second degree
443 felony.

444 (ii) Notwithstanding Section 76-3-301, for purposes of Subsection ~~[(10)]~~ (12)(d)(i), the
445 penalty may not:

446 (A) be less than \$1,500; or

447 (B) exceed \$25,000.

448 (e) (i) A person is guilty of a second degree felony if that person commits an act:

449 (A) described in Subsection ~~[(10)]~~ (12)(e)(ii) with respect to one or more of the

450 following documents:

451 (I) a return;

452 (II) an affidavit;

453 (III) a claim; or

454 (IV) a document similar to Subsections [~~(10)~~] (12)(e)(i)(A)(I) through (III); and

455 (B) subject to Subsection [~~(10)~~] (12)(e)(iii), with knowledge that the document

456 described in Subsection [~~(10)~~] (12)(e)(i)(A):

457 (I) is false or fraudulent as to any material matter; and

458 (II) could be used in connection with any material matter administered by the

459 commission.

460 (ii) The following acts apply to Subsection [~~(10)~~] (12)(e)(i):

461 (A) preparing any portion of a document described in Subsection [~~(10)~~] (12)(e)(i)(A);

462 (B) presenting any portion of a document described in Subsection [~~(10)~~] (12)(e)(i)(A);

463 (C) procuring any portion of a document described in Subsection [~~(10)~~] (12)(e)(i)(A);

464 (D) advising in the preparation or presentation of any portion of a document described

465 in Subsection [~~(10)~~] (12)(e)(i)(A);

466 (E) aiding in the preparation or presentation of any portion of a document described in

467 Subsection [~~(10)~~] (12)(e)(i)(A);

468 (F) assisting in the preparation or presentation of any portion of a document described

469 in Subsection [~~(10)~~] (12)(e)(i)(A); or

470 (G) counseling in the preparation or presentation of any portion of a document

471 described in Subsection [~~(10)~~] (12)(e)(i)(A).

472 (iii) This Subsection [~~(10)~~] (12)(e) applies:

473 (A) regardless of whether the person for which the document described in Subsection

474 [~~(10)~~] (12)(e)(i)(A) is prepared or presented:

475 (I) knew of the falsity of the document described in Subsection [~~(10)~~] (12)(e)(i)(A); or

476 (II) consented to the falsity of the document described in Subsection [~~(10)~~]

477 (12)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection ~~[(10)]~~ (12)(e), the penalty may not:

(A) be less than \$1,500; or

(B) exceed \$25,000.

(v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection ~~[(10)]~~ (12)(e).

(vi) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections ~~[(10)]~~ (12)(e)(i)(A)(I) through (III).

(f) The statute of limitations for prosecution for a violation of this Subsection ~~[(10)]~~ (12) is the later of six years:

(i) from the date the tax should have been remitted; or

(ii) after the day on which the person commits the criminal offense.

~~[(11)]~~ (13) Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

Section 2. Section **59-7-507** is amended to read:

59-7-507. Payment of tax.

(1) (a) If quarterly estimated payments are not made as provided in Section 59-7-504, the amount of tax imposed by this chapter shall be paid no later than the original due date of the return.

(b) If an extension of time is necessary for filing a return, as provided in Subsection 59-7-505(3) or Section 59-7-803, payment must be made no later than the original due date of the return in an amount equal to the lessor of:

(i) The greater of:

~~[(i)]~~ (A) 90% of the total ~~[amount of]~~ tax ~~[due with]~~ reported on the return ~~[when filed]~~ for the current taxable year; or

(B) 100% of the minimum tax ~~[due under]~~ described in Section 59-7-104~~[-, whichever is greater]~~; or

(ii) 100% of the ~~[amount of tax paid for the previous year]~~ total tax liability for the taxable year immediately preceding the current taxable year.

(c) If payment is not made as provided in Subsection (1)(b), the commission shall add an extension penalty as provided in Section 59-1-401, until the tax is paid during the period of extension.

(2) (a) At the request of the taxpayer, the commission may extend the time for payment of the amount determined as the tax by the taxpayer, or any part ~~[thereof]~~ of that amount, for a period not to exceed six months from the date prescribed for the payment of the tax. ~~[In such case]~~

(b) For purposes of Subsection (2)(a), the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension.

Section 3. Section **59-10-516** is amended to read:

59-10-516. Filing extension -- Payment of tax -- Penalty -- Foreign residency.

(1) (a) The commission shall allow a taxpayer an extension of time for filing returns.

(b) The extension under Subsection (1)(a) may not exceed six months.

(2) (a) Except as provided in Subsection (2)(b), the commission may not impose on a taxpayer during the extension period prescribed under Subsection (1) a penalty under Section 59-1-401 if the taxpayer pays, on or before the 15th day of the fourth month following the close of the taxpayer's taxable year, the lessor of:

(i) ~~[at least]~~ 90% of the total tax reported on the ~~[income tax]~~ return ~~[when it is filed]~~ for the current taxable year; or

~~[(ii) an amount equal to the total amount of tax reported on the income tax return for the previous year.]~~

(ii) 100% of the total tax liability for the taxable year immediately preceding the current taxable year.

(b) If a taxpayer fails to meet the requirements of Subsection (2)(a), the commission

534 may apply to the total balance due a penalty as provided in Section 59-1-401.

535 (3) If any federal income tax return filing is lawfully delayed pending a determination of
536 qualification for federal tax exemption due to residency outside of the United States, a taxpayer
537 shall file a return within 30 days after that determination is made.

538 Section 4. **Utah Tax Review Commission study.**

539 (1) During the 2007 interim, the Utah Tax Review Commission shall study penalties
540 relating to taxes, fees, and charges.

541 (2) The Utah Tax Review Commission shall make recommendations to the Revenue
542 and Taxation Interim Committee on or before the November interim meeting as to whether any
543 penalty provisions relating to a tax, fee, or charge should be modified or repealed.